

U.S. Department
of Transportation
**United States
Coast Guard**



Commandant
United States Coast Guard

Washington, D.C. 20593-0001
Staff Symbol: (G-MOC-2)
Phone: (202) 267-1464

16711/FCC

DOCKET FILE COPY ORIGINAL

**JUN 21 1996
RECEIVED**

Mr. William F. Caton
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, DC 20554

JUN 21 1996

**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY**

Ref: **CI Docket No. 95-55**, Notice of Proposed Rule Making (NPRM),
Amendment of the Commission's Rules Concerning the
Inspection of Radio Installations on Large Cargo and Small
Passenger Vessels

Dear Mr. Caton:

My staff has reviewed the reference document for consistency with the duties and responsibilities of the Coast Guard to ensure the safety of inspected vessels. The Coast Guard fully supports your efforts to streamline government regulation and reduce the regulatory burden on the maritime industry wherever these efforts are consistent with the maintenance of a high level of safety. It is our belief that the Commission is best equipped to render final judgement regarding the technical quality of shipboard radio installations and equipment. Because of this, these comments focus primarily on the issue of management of government delegation of inspection to third parties. As you may know, the Coast Guard has undertaken similar delegation efforts for some of its own commercial ship inspections, so we have dealt with many of the questions posed by your NPRM. The Coast Guard has developed a balanced approach to delegation and oversight which attempts to ensure the maintenance of a high level of safety with a minimum of administrative burden. The attached comments respond to the individual questions raised in the FCC's NPRM, and they explain in some detail the Coast Guard's approach to the delegation of vessel inspections. I ask that you give due consideration to aligning your delegation approach to that chosen by the Coast Guard in the area of shipboard inspections.

In addition to our attached comments, I have enclosed for your reference, copies of our current delegation guidance for ship inspections by the American Bureau of Shipping (ABS), entitled the Alternative Compliance Program (ACP). As of this date ACP is still in the pilot (test) phase of implementation. The Coast Guard elected to initiate delegation through a limited pilot program from January of 1995 until July of 1997, when full implementation will occur. The pilot phase is intended to allow for a period of testing and adjustment in the management of our delegation to ABS. I recommend that the FCC also incorporate a pilot phase in its proposed delegation.

No. of Copies rec'd
List ABCDE

045

SUBJ: RESPONSE TO CI DOCKET NO. 95-55, NPRM AMENDMENT OF THE
COMMISSION'S RULES CONCERNING THE INSPECTION OF RADIO
INSTALLATIONS ON LARGE CARGO AND SMALL PASSENGER VESSELS

Should you have any questions regarding the attached comments,
please have your staff contact Mr. John Hannon of the Coast
Guard's Vessel Compliance Division (G-MOC-2) at the above
address.

Sincerely,



K. W. KEANE

Acting Chief, Office of Compliance
By direction of the Commandant

Encl: (1) Coast Guard Comments on CI docket No. 95-55
(2) NVIC 2-95, (ACP PROGRAM DESCRIPTION)
(3) COMDTINST 16711.17 (ACP OVERSIGHT)
(4) COMDTINST 16711.18 (ACP ISSUANCE OF CERTIFICATES)
(5) NVIC 2-94 (ISM CODE)

RECEIVED

JUN 21 1996

ENCLOSURE (1)

COMMENTS ON CI DOCKET NO. 95-55

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

These comments address the issue of FCC delegation to third parties for the conduct of shipboard radio safety inspections. In section 18 A, B & C of the NPRM, the Commission raises three central questions, I have addressed each of them separately but believe that the answers to all three are strongly interrelated.

18 A: *Should the Commission enter into contracts with FCC-Licensed technicians regarding such (small passenger vessel) inspections?*

Comment: Yes, provided adequate qualification standards and oversight are provided and maintained to ensure that there is no decrease from the effectiveness of the current safety inspections provided by FCC personnel.

18 B: *Do the minimum licensing requirements we have proposed ensure that the technical individuals inspecting ships on behalf of the Commission are sufficiently qualified?*

Comment: No. While the Coast Guard supports the minimum licensing requirements proposed, it does not appear that the prerequisite for these licenses incorporates any training or demonstration of qualifications in the actual conduct of safety inspections on behalf of FCC, let alone prescribe or even address the skill to maintain or operate the equipment. Technical knowledge is certainly a baseline requirement for any inspector. However, demonstration of the application of that knowledge, and the attainment and maintenance of inspector qualifications as such, should be closely controlled by the FCC.

18 C: *Comments in response to the NOI were divided about the level of Commission oversight with respect to ship inspections. Some Commentors suggested that we conduct random or follow up inspections. What is the best way to ensure that safety is not adversely affected by privatization? We have entered into agreements with the U.S. Coast Guard in the past to verify that ships have valid certificates. Is this sufficient?*

Comment: Selection and oversight of third party delegates by the granting authority is critical. In the Coast Guard's view, oversight is a multi-tiered process that starts with the selection of properly qualified organizations to which inspection authority is delegated (hereafter "delegated parties"), followed continuously with oversight and audit. Although the Coast Guard

currently conducts radio checks as part of its annual examination on small passenger vessels, in lieu of FCC annual examinations, this approach is not acceptable for large ocean-going ships equipped with sophisticated telecommunication equipment. The Coast Guard will continue to perform a document check on all inspected vessels as part of its annual examinations with the expectation that the FCC will continue to bear the primary responsibility for ensuring safety documents related to the radio installations are issued as a result of completing all necessary tests and inspections in the presence of a competent and impartial inspector. Below are comments related to the maintenance of this process.

The parties to whom the FCC delegates the vital inspection authority at issue must possess the technical skills and inspection skills necessary to provide inspection services that are equivalent to the current level of inspection provided by FCC personnel. Although the NPRM appears to establish a technical knowledge criterion for the prospective inspectors, no mention is made of any means for demonstrating the application of that knowledge, nor for demonstrating additional qualifications to conduct FCC tests and inspections. The Coast Guard's Alternative Compliance Program (ACP) actually delegates inspection authority to an institution rather than to individuals. The institution (a "Classification Society," which is a private not-for-profit ship safety inspection service) in turn provides ongoing training and maintains the credentials/qualifications of individual inspectors, who are its employees. To a large extent the Coast Guard's delegation is dependent upon the delegated organization having an externally audited and certified quality management system in place. This places much of the burden of controlling the quality and consistency of inspections upon the organization to whom the delegation is made. Without such a quality management system in place within the organization the level of direct oversight of individual surveyors/inspectors by the government would have to be much higher. It is the Coast Guard's belief the FCC stands a much better chance of maintaining the quality and consistency of FCC inspections by using established organizations comprised of inspectors rather than attempting to stretch FCC's already reduced resources to the task of overseeing a large and diverse group of independent inspectors. We recommend that you do not delegate this important authority to parties that have not attained some independent certification of an established quality management system (the predominant standard for quality systems used in private industry is entitled "ISO 9000", an international standard which has also been adopted as a U.S. standard by the American Society for Quality Control (ASQC) and the American National Standards Institute (ANSI). The ASQC accredits independent auditing organizations to conduct quality system

audits to the ISO 9000 standard, and grants certifications under the authority of ASQC. The existence of an ASQC-certified quality system in an institution provides a much higher level of consistency of product or service delivered and provides more detailed record keeping than would be expected to exist in a non-certified company. In the instant case, the FCC could specify that the delegated organization demonstrate to ASQC certified auditors that it follows specific FCC guidelines in the course of conducting inspections on behalf of FCC as part of its quality system.

Whether classification societies are the correct choice of organization for communications equipment inspections to be conducted on behalf of FCC is a matter which the Commission must evaluate. What is critical is that all inspectors are under the direct and exclusive employment of the organization delegated the authority by FCC. Exclusive employment is necessary to ensure a high level of quality control and ethical conduct. It also serves as a barrier to the potential for conflicts of interest that could arise should the inspector have separate and divergent business interests from that of the delegated entity.

The Coast Guard recommends that the FCC create a formal list of specific tasks which must be satisfactorily performed to complete a shipboard radio inspection. The Coast Guard recommends that third party inspectors be required to demonstrate their competence in the performance of the FCC inspections tasks in the presence of currently qualified FCC inspectors. Third party inspectors may also require training to satisfactorily perform the FCC shipboard radio inspections. In which case it may be necessary to develop a joint training program between FCC and delegated parties to ensure that the FCC's enforcement policy is correctly understood and applied. It has been the Coast Guard's experience under ACP that the delegated organizations must ensure their inspectors are familiar both with the technical criteria required to pass inspection as well as with enforcement policy or standards where a deficiency is noted in the course of inspection. Inspectors must have clear guidelines from FCC regarding the scope of their legal authority to act on behalf of FCC in enforcement of law or regulation, especially if latitude is given to the inspector to render a professional judgment as to whether a deficiency poses a risk to safety of life. The inspector needs to know when a deficiency must be corrected prior to the vessel being placed in operation or whether the correction of a deficiency can be deferred to allow the vessel to operate until correction. If correction is deferred, the inspector must have guidelines as to how long and under what conditions deferral may be granted. Inspectors must also be thoroughly informed as to their responsibility to report deficiencies to the FCC or to the Coast Guard.

For delegated organizations that have attained quality system certification the FCC could require that the training and qualification of inspectors to FCC requirements be part of the quality system. This would relieve FCC from continuing to monitor the qualification of each individual inspector/employee of the organization to which delegation is made. (It would not be reasonable to require organizations to which delegation is made to attest to the qualification of inspectors not in their employment, since it is likely that such individuals could be in direct competition for the same business.) The FCC should, however, be prepared to continue to verify the initial qualification of the inspectors for each organization to which delegation is made. Although this may prove to be a greater or lessor resource burden for FCC, depending on the number of delegations allowed, a properly run program of delegation and oversight will necessarily impose a continuing resource demand on the delegating agency. It is important that the agency not delegate inspections to more third parties than it can be manage with available resources. The Coast Guard has consistently limited the number of institutions to which it has delegated authority to ensure that adequate resources are available to manage oversight. We strongly suggest that you adopt this same position.

The Commissions NPRM refers to two independent certifications that a ship has passed inspection, one of which is made by the owner of the vessel being inspected. Although owner participation is a desirable aspect of any safety program, we do not feel that it is a substitute for a program of independent oversight by the FCC. Independent oversight by the FCC and spot checks of vessels by FCC inspectors must be included as part of the oversight of delegated parties. As mentioned earlier in these comments, oversight is a multi-tiered process and spot checks are part of that process. Spot checks need not be performed after every inspection by a delegated party, but should be done randomly to provide additional verification that proper inspections are being carried out by the delegated parties. The delegated parties should perform spot checks of their own employees as required by the internal audit provisions of a quality management system.

It would be advantageous if the inspection and testing of the Radio Installation was tied into the ship owner's safety management system, where such a system is in place. Safety Management Systems (SMS) will be required for vessels currently subject to the International Convention for Safety of Life at Sea (SOLAS) under the International Safety Management (ISM) Code (IMO resolution A739 (18), Chapter 9 of SOLAS). A document of compliance for ISM code will be required of all companies operating vessels subject to SOLAS. ISM code compliance starts on July 1, 1998 for Tankers, Passenger Ships, Chemical Carriers

and High Speed Craft. All other vessels subject to SOLAS will be required to be certified to ISM code on July 1, 2002. The ISM code is similar to the ISO 9000 standard mentioned earlier in these comments and appears to address the FCC's concern that periodic inspection alone is insufficient to ensure a continuous level of safety. For those vessels subject to ISM code, the proper operation of shipboard radio installations should be included as part of the SMS. The ISM code certificate is issued for 5 years and is subject to annual endorsement. The SMS is subject to audit at initial certification, renewal, as well as an interim audit in the middle of the five year certificate period.

Many of the vessels required to hold FCC radio certificates are not subject to SOLAS, however, and will be unaffected by the ISM code. In particular, the large number of Small Passenger Vessels, as well as all vessels operating exclusively on the Great Lakes and vessels operated exclusively in domestic service will not be subject to the ISM Code. In such cases the certification of the owner as to the proper operation of the radio installation will not be accompanied by the supporting documentation offered by a safety management system. In these circumstances the FCC should consider requiring that a record be maintained onboard the vessel of radio malfunctions, repairs and tests of the radio. For operational reasons the Coast Guard has limited capability to respond to operators calling in by radio, testing to see if their equipment is operating properly; if such radio checks are required as part of the owner certification, a source other than the local Coast Guard needs to be specified.

Lastly, the FCC needs to establish a system for delegated parties to report the results of radio inspections to the relevant Coast Guard Officer in Charge, Marine Inspection. This information is necessary for the Coast Guard to update its vessel status records.

U.S. Department
of Transportation

United States
Coast Guard



Commandant
U. S. Coast Guard

2100 Second St. S.W.
Washington, DC 20593-0001
Staff Symbol: (G-MVI-1/14)
Phone: (202) 267-1464

COMDTPUB P16700.4
NVIC 2-95
JUNE 5, 1995

NAVIGATION AND VESSEL INSPECTION CIRCULAR NO. 2-95

Subj: U.S. COAST GUARD'S ABS BASED ALTERNATE COMPLIANCE PROGRAM

1. **PURPOSE.** This Circular introduces a voluntary program available through the American Bureau of Shipping (ABS) for owners, operators, designers and builders of U.S. flag vessels to demonstrate compliance with U.S. Coast Guard design and inspection regulations. Called the U.S. Coast Guard's ABS Based Alternate Compliance Program (CG/ABS/ACP), it is intended to reduce the regulatory burden on the maritime industry while maintaining existing levels of safety, and provide the maritime industry with more flexibility in determining how to build and operate U.S. flag vessels. As this is a voluntary program, vessel owners operators, and builders can continue to engage the Coast Guard to conduct plan review or inspect their vessels in accordance with applicable provisions of the Code of Federal Regulations (CFR), and existing Coast Guard publications and directives.
2. **DIRECTIVES AFFECTED.** None.
3. **AUTHORITY.** Title 46 U.S.C. 3316 authorizes the Coast Guard to accept plan reviews, inspections and examinations performed by the ABS, or a similar U.S. classification society, for compliance with Coast Guard rules and regulations for classed and unclassified vessels. As provided by separate cites in each Part of Titles 33 and 46 CFR, the Commandant has the authority to grant equivalencies to Coast Guard rules and regulations. On January 12, 1995, the Coast

DISTRIBUTION - SDL No. 133

	a	b	c	d	e	f	g	h	i	j	k	l	m	n	o	p	q	r	s	t	u	v	w	x	y	z
A																										
B		2	10		1			1						132	1		1									30
C					*							1	*													
D	1	1		1*							1	*														
E														2	2											
F	1		1								1															
G																										
H																										

NON-STANDARD DISTRIBUTION: (See Page 10.)

ENCLOSURE(2)

NAVIGATION AND VESSEL INSPECTION CIRCULAR NO. 2-95

Guard and the ABS executed a Memorandum of Understanding (MOU) which, among other things, delegated authority to the ABS to inspect appropriate vessels utilizing the CG/ABS/ACP. Implementation of the CG/ABS/ACP pilot program was announced in the Federal Register, February 3, 1995 (60 FR 6687).

4. **APPLICABILITY.** Owners or operators of ABS classed, U.S. flag tank ships and cargo ships which have a valid Coast Guard Certificate of Inspection (COI) and valid international certificates may enroll in a pilot program designed to test and evaluate the standards and procedures described in this Circular. Broader application of this program will be accomplished through rule making. However, owners, operators or builders of vessels other than those described above may use the standards and procedures described in this Circular should the Coast Guard expand the scope of the pilot program. The Coast Guard will announce any expansion of the pilot program by publishing a notice in the Federal Register.

5. **BACKGROUND.**

- a. On January 28, 1992, the President issued a memorandum entitled "Reducing the Burden of Government Regulation" calling for a review of existing and proposed federal regulations for their effect on economic recovery and competitiveness. On February 7, 1992, the Secretary of Transportation issued a request for public comment on how DOT regulations impact industry in this regard. In response to the Secretary's request, the U.S. maritime industry submitted many comments. These comments noted the continuing pressure on the competitive position of the U.S. oceangoing merchant fleet and the commercial shipbuilding industry. Members of the industry called for greater alignment of Coast Guard regulations with international standards to reduce cost disadvantages incurred by the U.S. maritime industry and improve the competitiveness of the U.S. industry. These developments together with human factors concerns and the need for increased port state control activities prompted the Coast Guard to review its approach to ensuring maritime safety.
- b. As part of the review of its regulatory approach, the Coast Guard created a joint USCG/ABS task force in 1992 to conduct a comparison of the requirements in the CFR, ABS Rules, the 1974 Safety of Life at Sea Convention as

NAVIGATION AND VESSEL INSPECTION CIRCULAR NO. 2-95

amended (SOLAS 74/78) and the International Convention for the Prevention of Pollution from Ships (MARPOL 73/78). The purpose of this task force was to identify redundancies and determine if these other standards could achieve an equivalent level of safety. Over 370 separate regulatory topics have been examined to date. The task force determined that many of the CFR requirements examined could be satisfied by compliance with ABS Rules, SOLAS 74/78, and MARPOL 73/78. A U.S. Supplement to ABS Rules for Classification of Steel Vessels (U.S. Supplement) was developed to address those areas where current Coast Guard requirements are not embodied in either ABS Rules or international conventions or, in the case of international conventions, where details were left for interpretation by a flag administration.

- c. The Coast Guard has concluded that the design requirements and survey provisions of ABS Rules and applicable international codes and convention regulations, in conjunction with the U.S. Supplement, provide an equivalent level of safety to corresponding federal regulations which govern the inspection of U.S. vessels. The CG/ABS/ACP allows those U.S. flag, ABS classed vessels, which are designed, equipped, maintained and surveyed in accordance with applicable ABS Rules, international codes and convention regulations, and the U.S. Supplement to satisfy certain periodic Coast Guard test and inspection requirements. The CG/ABS/ACP allows the Coast Guard to shift emphasis from providing a quality control service to the maritime industry to evaluating the human factors elements in maritime operations which statistics indicate account for more than eighty percent of all marine casualties. Additionally, the CG/ABS/ACP allows the Coast Guard to shift its resources to port state enforcement without diminishing the level of safety on U.S. vessels. Finally, the CG/ABS/ACP will lessen regulatory burdens on the U.S. maritime industry and reduce the duplication of effort between the Coast Guard and the ABS.
6. IMPLEMENTATION. The program described in this Circular is being implemented systematically to allow for adequate testing and evaluation. Under the terms of the CG/ABS/ACP the Coast Guard will accept surveys performed by the ABS as equivalent to tests and examinations required for initial and in-service inspections for certification, periodic re-examination, and drydock examinations. Vessel owners and

NAVIGATION AND VESSEL INSPECTION CIRCULAR NO. 2-95

operators may cite the successful completion of these activities by the ABS as satisfactory evidence of compliance with applicable laws and regulations. This Circular may be revised in the future to make improvements based upon lessons learned during the test and evaluation period.

- a. Plan Review. The Coast Guard will accept ABS plan review for compliance with the applicable U.S. and international codes and convention regulations for all U.S. flagged vessels designed to the applicable ABS class standards, including vessels being reflagged. The ABS will review plans on behalf of the Coast Guard for compliance with the applicable international codes and convention regulations, ABS Rules, and U.S. Supplement. Procedures for submission of plans are described in enclosure (1).

- (1) Equivalent Standards. Where, of necessity, the regulations include detailed minimum design requirements, often citing specific standards, the regulations also provide for the acceptance of equivalent designs, components, and materials. When reviewing plans to the applicable international codes and convention regulations, ABS Rules, and U.S. Supplement, the ABS is authorized to evaluate and approve, on behalf of the Coast Guard, the application of an equivalent "component" level or "system" level standard. Equivalency evaluations which involve truly unique or novel features or the substitution of one type system for another, will be reviewed by the ABS and forwarded, with ABS' comments and recommendations to the Coast Guard for final approval.

- (2) Reflaggings. Navigation and Vessel Inspection Circular (NVIC) 10-81, Change-1, provides guidance to owners, builders, and designers of vessels being reflagged. The Coast Guard will accept ABS plan review for all vessels being reflagged. However, if a vessel being reflagged under NVIC 10-81, Change-1 and reclassified by the ABS was designed and built to the rules of a classification society meeting the requirements in Appendix 1 to the International Maritime Organization (IMO) Resolution A.739(18), the ABS may determine the extent of hull and machinery plan review. A vessel being reflagged and reclassified by the ABS which was designed and built to the rules of a classification society not meeting the requirements in Appendix 1 to IMO Resolution A.739(18) may be required to undergo full plan review.

NAVIGATION AND VESSEL INSPECTION CIRCULAR NO. 2-95

- b. New Construction/Conversion Inspections. Owners or operators of vessels designed to the applicable ABS class standards may elect to have their vessels surveyed by the ABS for compliance with the applicable international codes and convention regulations, ABS Rules and U.S. Supplement in accordance with the procedures outlined in enclosure (2).
- c. In-Service Inspections And Examinations. Owners and operators of vessels which meet the established enrollment criteria may participate in a cooperative in-service inspection program. Program details, including responsibilities of participating owners/operators, the ABS, and the Coast Guard are contained in enclosure (2). In brief, under the CG/ABS/ACP, ABS surveys performed as a requirement for classification, to verify compliance with international codes and convention regulations, and to verify compliance with the requirements of the U.S. Supplement will satisfy the majority of Coast Guard test and inspection requirements for certification.
- (1) Inspection for Certification. The Coast Guard issues all COIs. Applications for inspections for certification must be made to the Coast Guard. The scope of the Coast Guard inspection will be similar to the examinations conducted by the Coast Guard on comparable foreign flag vessels. In brief, the cognizant Officer-in-Charge, Marine Inspection (OCMI) will review the ABS' reports and records of the various tests and examinations required as a condition of classification, or compliance with international codes and convention regulations and the U.S. Supplement. Coast Guard marine safety personnel will then board the vessel and hold drills to evaluate the proficiency of the vessel's crew in dealing with likely shipboard emergency situations. During the course of the drills, Coast Guard personnel will observe the vessel's various systems in operation, and evaluate their materiel condition based upon these observations. Coast Guard personnel will also examine crew licenses and documents, vessel manuals, and maintenance records.
- (2) Periodic Re-examinations. Vessels enrolled in the CG/ABS/ACP will be subject to annual Coast Guard boardings of a scope comparable to annual foreign flag vessel exams. This will ensure consistent treatment between U.S. and foreign flag vessels.

NAVIGATION AND VESSEL INSPECTION CIRCULAR NO. 2-95

Periodic re-examinations will typically be conducted during a two month window on either side of the vessel's COI anniversary. Vessels which operate in foreign locations not easily accessible to Coast Guard marine safety personnel, and are not required by law to undergo an annual examination, may defer the annual Coast Guard boarding to a mutually convenient time, provided that the vessel's owner attests to the cognizant OCMI that the vessel is in compliance with all applicable laws and regulations, and the ABS verifies that the vessel is in compliance with those items which have been delegated to it under the CG/ABS/ACP.

- (3) Drydock Examinations and Internal Structural Exams (ISE). Drydock examinations and ISEs shall be conducted at the intervals prescribed in applicable requirements. Owners and operators of participating vessels must schedule drydock examinations and ISEs with the ABS. Coast Guard involvement in drydock examinations and ISEs will be determined on a case by case basis. Factors taken into account by the Coast Guard include vessel type, age, route, service, deficiency record, pollution and casualty history, extent of work to be performed, Coast Guard training needs, and program oversight requirements. Requests for underwater examinations in lieu of drydocking must be submitted to the ABS, which will forward it to Coast Guard Commandant (G-MVI) with a recommended action. The Commandant retains the authority to approve or deny such requests. Upon approval by the Coast Guard, the ABS may perform the underwater examination in accordance with its own provisions.
- (4) Damage Surveys and Marine Casualties. Nothing in this program shall be interpreted as limiting or restricting the authority of the Coast Guard's Captains of the Port to exercise the control over vessels as provided in existing laws and regulations. The Coast Guard will conduct marine casualty investigations as provided by federal law. Notwithstanding requirements imposed by the ABS to report damages to classed vessels, owners, agents, masters or persons in charge of a participating vessel which is involved in a reportable marine casualty shall report same to the Coast Guard as required by 46 CFR 4.05-1. Following any marine

NAVIGATION AND VESSEL INSPECTION CIRCULAR NO. 2-95

casualty, participating vessel owners may have the ABS assess the materiel condition of the affected vessel and recommend specific temporary and permanent repairs. Generally, OCMIs will accept the ABS' repair recommendations in non-reportable marine casualties. In cases involving reportable marine casualties, the OCMI in whose zone the casualty occurred may take into account the ABS' repair recommendations. However, the OCMI retains ultimate authority to review and approve temporary repair proposals in cases where damage to the vessel involves or is likely to result in a pollution incident, or poses a hazard to the safety of a U.S. navigable waterway. Generally, OCMIs will accept the ABS' recommendations for permanent repairs when the vessel no longer poses an immediate pollution or navigation safety threat.

(5) Inspection Activities Retained by the Coast Guard. The Coast Guard retains authority for the following marine inspection activities:

- (a) All manning issues;
- (b) Drydock extensions;
- (c) Permits to Proceed;
- (d) Load Line exemptions;
- (e) Excursion permits;
- (f) Changes of employment; and
- (g) Critical Area Inspection Plan (CAIP) enrollment and exams.

Owners or operators of participating vessels must apply directly to the cognizant OCMI for items (a) and (b) above. Owners or operators of participating vessels must apply directly to the local OCMI (i.e., the OCMI in whose zone the proposed activity will occur or originate) regarding items (c) through (f). CAIP issues, item (g), shall be handled as outlined in appropriate NVICs. The local OCMI will conduct the appropriate inspection or evaluation and issue Coast Guard certificates, amendments, letters, or permits, as necessary.

7. Issuance of Documents and Certificates. The Coast Guard will issue the vessel's Certificate of Inspection, Certificate of

NAVIGATION AND VESSEL INSPECTION CIRCULAR NO. 2-95

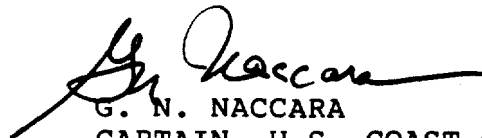
Documentation, Certificate of Financial Responsibility and Stability Letter. The ABS will issue the international convention certificates identified in paragraph 2.d. of enclosure (2) of this Circular to the vessels participating in this program. As provided by 46 CFR 170.120(b), if the ABS includes pertinent information from the vessel's Trim and Stability Manuals on the Load Line Certificate, the vessel need not have a Coast Guard issued Stability Letter.

8. Denial Or Revocation Of A COI. The Coast Guard retains the authority to deny or revoke certification of a participating vessel based upon such factors as: the vessel's involvement in a marine casualty or pollution incident; failure to correct ABS Outstanding Requirements for Class (OSRs), statutory deficiencies or Coast Guard marine inspection deficiencies; unreasonable delays in complying with OSR's or in correcting statutory deficiencies or Coast Guard marine inspection deficiencies; or, expiration or invalidation of required documents.
9. Civil Penalties. Compliance with OSRs and correction of statutory deficiencies issued to participating vessels by the ABS is required as a condition of program participation. Failure to comply with duly issued ABS requirements may result in the vessel being disenrolled from the CG/ABS/ACP and subjected to all applicable Coast Guard requirements. Responsible parties who fail to comply with applicable Coast Guard marine inspection requirements may then be subject to civil penalty action as provided in existing regulations.
10. Appeals. Appeals will be handled as specified in enclosure (3).
11. Oversight. The Coast Guard's oversight program is designed to ensure that vessels participating in the CG/ABS/ACP maintain a level of safety equivalent to non-participating certificated vessels. Oversight activities have been designed to identify and correct programmatic discrepancies while minimizing duplication of effort and avoiding interruption of vessel schedules. Program oversight will consist of a cumulative evaluation of activities delegated to the ABS through record review and administrative audits, and activity monitoring conducted during new construction and in-service vessel inspections for certification.
12. Request To Participate. Interested owners or operators are referred to enclosure (4) for specific instructions on enrollment procedures. Participation in this program does

NAVIGATION AND VESSEL INSPECTION CIRCULAR NO. 2-95

not relieve vessel owners or operators of their statutory responsibility to maintain their vessels in compliance with applicable requirements. This program does not in any way limit the Coast Guard's authority to verify that vessels of the United States are designed, built, equipped, maintained and operated in accordance with all applicable domestic and international requirements.

13. **ACTION.** Vessel designers, builders, owners, operators, or their representatives, are encouraged to take advantage of the procedures and guidelines detailed in this Circular. District Commanders, Commanding Officers of Marine Safety Offices and the Commanding Officer, Marine Safety Center are encouraged to bring this NVIC to the attention of appropriate individuals in the marine industry.



G. N. NACCARA
CAPTAIN, U.S. COAST GUARD
ACTING CHIEF, OFFICE OF MARINE SAFETY,
SECURITY AND ENVIRONMENTAL PROTECTION

- Encl: (1) Procedures for Plan Submittal and Approval
(2) Detailed Procedures for Inspections and Examinations
(3) Appeals, Interpretations and Equivalencies and Exemptions from Requirements of International Conventions
(4) Enrollment Procedures and Conditions for Participating
(5) USCG/ABS Memorandum of Understanding dated January 12, 1995

NAVIGATION AND VESSEL INSPECTION CIRCULAR NO. 2-95

Non-Standard Distribution:

C:e New Orleans (90); Hampton Roads (50); Baltimore (45); San Francisco Puget Sound (40); Philadelphia, Port Arthur, Honolulu, (35); Miami, Houston, Mobile, Long Beach, Morgan City, Portland OR (25); Jacksonville (20); Boston, Portland ME, Charleston, Galveston, Anchorage (15); Cleveland (12); Louisville, Memphis, Paducah, Pittsburgh, St. Louis, Savannah, San Juan, Tampa, Buffalo, Chicago, Detroit, Duluth, Milwaukee, San Diego, Juneau, Valdez (10); Providence, Huntington, Wilmington, Corpus Christi, Toledo, Guam, Sault Ste. Marie (5).

C:m New York (70); Sturgeon Bay (4).

D:d Except Baltimore, Moriches and Grand Haven.

D:1 CG Liaison Officer MILSEALIFTCOMD (Code N-7CG), CG Liaison Officer RSPA (DHM-22), CG Liaison Officer MARAD (MAR-742), CG Liaison Officer JUSMAGPHIL, CG Liaison Officer World Maritime University, CG Liaison Officer ABS, Maritime Liaison Office Commander U.S. Naval Forces Central Command (1).

NOAA Fleet Inspection Officer (1).
U.S. Merchant Marine Academy (1).

DETAILED PROCEDURES FOR PLAN SUBMITTAL AND APPROVAL

1. GENERAL.

- a. As authorized by 46 U.S.C. 3316, the Coast Guard will accept ABS plan review for compliance with the applicable ABS Rules, international codes and conventions, and the U.S. Supplement for participating vessels. The ABS may perform plan review on behalf of the Coast Guard for all aspects of design, construction, conversion (major and minor), reflagging, and repairs.
- b. The Coast Guard will retain plan review authority for any area it identifies as being of particular concern.
- c. In cases where the Coast Guard does not have regulations or policies developed for a particular application, such as for novel or especially complex vessel designs or operations, the Marine Safety Center (MSC) may choose to do preliminary concept review to determine what standards would apply. After concept review, the applicability of this circular will be discussed between the ABS and the MSC.

2. PLAN SUBMITTAL AND REVIEW PROCEDURES.

- a. The submitter must forward to ABS Americas a list of those plans intended to be submitted. The ABS will review the plan list and respond to the submitter with a request for any additional plans that may be required. Plans should be prepared and submitted in accordance with the instructions in the appropriate ABS rules or guides.
- b. Plan review conducted by the ABS on behalf of the Coast Guard will be done by ABS employees certified as qualified in accordance with their quality system to perform the specific plan review function.
- c. Plans reviewed under this procedure will each be stamped to indicate ABS action on behalf of the Coast Guard. Plans will be stamped to identify action taken by the ABS (e.g., "APPROVED," "EXAMINED," "RESUBMISSION REQUIRED," etc.). Either an ABS plan stamp or correspondence which accompanies the plans will clearly indicate that the plans have been reviewed to all of the standards which apply to the CG/ABS/ACP. The plans may also be stamped to indicate ABS classification action.

Enclosure (1) to NVIC 2-95

- d. When plan review is completed, the results of the review will be noted in the letters or on the plans. This procedure applies to all plans reviewed by the ABS on behalf of the Coast Guard, not only those marked "Approved." ABS Americas will forward one copy of the review letters and plans to the cognizant ABS field office.
3. REFLAGGING. Owners of vessels being reflagged may use the plan submittal procedures in paragraph 2 of this enclosure if the vessel is being enrolled in the CG/ABS/ACP.
4. OVERSIGHT. The MSC may request certain plans for oversight review. Plan review oversight will focus on plans detailing systems which are novel or incorporate special features. Additionally, systems involving extensive equivalency determinations will also be subject to plan review oversight by the Coast Guard.

DETAILED PROCEDURES FOR INSPECTIONS AND EXAMINATIONS

1. DUTIES AND RESPONSIBILITIES OF VESSEL OWNERS AND OPERATORS.

- a. General. Vessel owners and operators may cite the successful completion of certain activities performed by ABS under the terms of the alternate compliance program as satisfactory evidence of compliance with applicable laws and regulations. Notwithstanding the role of the ABS in this program, vessel owners and operators bear the ultimate responsibility for ensuring their vessels are in compliance with applicable U.S. laws and regulations and international codes and conventions.
- b. Enrolling in the U.S. Coast Guard's ABS Based Alternate Compliance Program (CG/ABS/ACP). Vessel owners or operators who want to participate in this program must make application to the ABS as prescribed in enclosure (4).
- c. Scheduling Coast Guard Inspections. Vessel owners or operators must apply to the cognizant OCMI not less than 30 days prior to the expiration of the vessel's current COI to schedule a renewal inspection, or provide a minimum 30 days notice when requesting an initial inspection for certification. The application must indicate that the vessel is enrolled in the CG/ABS/ACP, and provide the date it has been accepted for enrollment by the ABS.
- d. Scheduling ABS Surveys. Vessel owners or operators must contact the ABS to schedule the surveys required as a condition of classification, surveys to maintain compliance with the U.S. Supplement to ABS Rules for Steel Vessels, or surveys for the issuance of international maritime safety or pollution prevention convention certificates. Owners or operators may, but are not required to, schedule an ABS survey to coincide with a USCG inspection for certification or re-examination.
- e. Notice of Marine Casualties. Owners, agents, masters, operators or persons in charge of a vessel involved in a marine casualty shall report same to the Coast Guard as required by Title 46 CFR Section 4.05-1.

Enclosure (2) to NVIC 2-95

- f. Special Purpose Inspections. Owners or operators of vessels which desire drydock interval extensions, Permits to Proceed, Load Line exemptions, Excursion permits, or Changes of Employment, or CAIP examinations must contact the local OCMI.
 - g. Access to Reports and Records. Vessel owners and operators must permit the Coast Guard unrestricted access to review any and all records, files, reports, documents, certificates and similar material held or issued by the ABS which the Coast Guard deems necessary to monitor the condition of the vessel during its participation in this program.
 - h. International Convention Certificates. Owners and operators must accept the ABS as the issuing authority for their vessels' international convention certificates. Contact the ABS to apply for equivalencies and extensions to international convention certificates.
 - i. Notification to Vessel's Crew. Vessel owners and operators must advise crew members when the vessel to which they are assigned is participating in the alternate compliance program.
2. DUTIES AND RESPONSIBILITIES OF THE ABS.
- a. General. Under this program, the ABS conducts surveys, tests, inspections and examinations (hereinafter "activities") to assess a vessel's compliance with the ABS Rules for Building and Classing Steel Vessels, the regulations established in various international maritime safety and pollution prevention treaties, and the U.S. Supplement.
 - b. Program Administration. The ABS has developed procedures for enrolling vessels into this program. The ABS will notify the Coast Guard as soon as it has enrolled a vessel. The ABS will also notify the Coast Guard as soon as a vessel becomes disenrolled from this program. The ABS will provide affected parties with information pertaining to its specific duties, responsibilities and fees upon request. The ABS will provide the Coast Guard access to any and all records, files, reports, documents, certificates and similar material which it holds or issues incident to performing CG/ABS/ACP activities and which the Coast Guard deems necessary to monitor the

condition of vessels participating in this program and to fulfill the United States' international convention reporting obligations.

- c. ABS Surveys. The ABS will respond to requests for classification surveys, surveys for compliance with the U.S. Supplement, and surveys for the issuance of international maritime safety and pollution prevention certificates in accordance with the policies and procedures it has established to carry out this program. When so requested by a participating owner or operator, the ABS may perform surveys to coincide with USCG inspections or re-examinations.
- d. International Certificates. The ABS is authorized to issue, endorse, extend, deny or revoke the following international certificates, in accordance with the provisions of each convention, to vessels participating in this program: Cargo Ship Safety Equipment Certificate; Record of Equipment for the Cargo Ship Safety Equipment Certificate; Cargo Ship Safety Construction Certificate; International Load Line Convention Certificate; and International Oil Pollution Prevention Certificate. The ABS is authorized to issue short term or interim international certificates when participating vessels receive statutory deficiencies following statutory surveys. The ABS is authorized to grant extensions to international convention certificates. The ABS is authorized to accept equivalencies to international codes and convention regulations as prescribed in enclosure (3).
- e. Notification Requirements. The ABS will notify the local OCMi when a survey involves drydocking (including Underwater Examination in Lieu of Drydocking) or internal structural examination. The ABS will provide the local OCMi with the completion dates of drydockings and internal structural exams. The ABS will notify the local OCMi whenever any survey reveals evidence of an apparent violation of any applicable law or regulation on the part of a participating vessel's owners, operators, or licensed or documented personnel, or evidence of previously unreported vessel damages. (For example, presence of oily residue in a segregated ballast tank may be evidence of an apparent violation of pollution prevention regulations.) The ABS will notify the cognizant OCMi whenever it denies, revokes or extends a classification certificate or denies, revokes or extends

Enclosure (2) to NVIC 2-95

an international convention certificate to a participating vessel. The ABS will notify the Coast Guard as prescribed in enclosure (3) in matters pertaining to equivalencies to international codes and conventions.

- f. Liaison with the Coast Guard. The ABS will establish and maintain liaison with the Coast Guard in accordance with the terms and conditions specified in its Memorandum of Understanding Concerning Delegation of Vessel Inspections and Examinations, and Tonnage Measurement, and Acceptance of Plan Reviews and Approvals. Among other things, this liaison will promote effective communication at all appropriate levels of the respective organizations, and facilitate sharing written and computer information relevant to the vessels participating in this program.
- g. Confidentiality. Except as otherwise required by law, ABS personnel will not divulge the identity of persons who report deficiencies on participating vessels without that person's express permission.

3. DUTIES AND RESPONSIBILITIES OF THE COAST GUARD.

- a. General. The Coast Guard will maintain its authority and responsibility to verify that vessels of the United States are designed, built, equipped, maintained and operated in accordance with all applicable international and domestic requirements. The CG/ABS/ACP is one method by which the Coast Guard satisfies this responsibility. The Coast Guard has determined that certain activities performed by the ABS are acceptable for establishing a vessel's compliance with applicable U.S. laws and regulations and international codes and conventions. The Coast Guard will conduct such administrative reviews and periodic boardings of participating vessels as may be required to satisfy its statutory responsibilities.
- b. Certificates of Inspection. The Coast Guard will issue all COIs. A COI will be issued to a vessel when the cognizant OCMi is in receipt of a properly completed and timely submitted application for inspection, and is satisfied that the vessel is in substantial compliance with applicable U.S. laws and regulations and is fit for its intended route and service. The OCMi may rely on ABS reports and other information to make that determination. The COI will indicate that the vessel has been inspected and certificated in accordance with the terms of the CG/ABS/ACP.

c. CG/ABS/ACP Inspection Process.

Administrative Review:

The cognizant OCMI will conduct an administrative review of the various reports of activities which have been performed by the ABS incident to classification, U.S. Supplement compliance, and issuance of international convention certificates. The review will determine if vessel equipment, components or systems have been examined at the required interval in accordance with proper procedures. The review will also establish whether or not the equipment, components or systems were found in satisfactory condition. Requirements issued by the ABS (i.e., OSRs, statutory deficiencies) to correct items not found satisfactory may be accepted, with respect to the time allowed and method of correction, when they have been made in accordance with the terms and conditions of this program.

Where ABS reports are found inadequate, or the reports indicate that the vessel is not in substantial compliance, the matter will be referred to the ABS prior to the Coast Guard boarding. Upon a determination by the cognizant OCMI that the reports show the vessel to be in substantial compliance with applicable U.S. laws and regulations and international codes and conventions, the vessel will be boarded by Coast Guard marine safety personnel.

Boardings:

The purpose of the boarding will be to carry out those activities which the Coast Guard has not authorized the ABS to perform under the terms and conditions of this program. Those activities include drills to assess the crew's proficiency in handling likely shipboard emergencies such as fires, ship abandonment, failures of critical safety systems, and pollution incidents. During the course of the drills, the marine safety personnel will verify, by visual observation of the vessel's equipment, components and systems, that the conditions documented in the various ABS reports accurately reflect the actual condition of the vessel and that no unsafe conditions exist.

- d. Periodic Re-examinations. The Coast Guard will notify the ABS and participating owners or operators when their

vessel is due for a periodic re-examination. At the time of the periodic re-examination, the cognizant OCMI will review the various reports of activities which have been performed by the ABS incident to classification, verification of U.S. Supplement compliance, and issuance of international convention certificates. The review will determine if vessel equipment, components or systems have been examined at the required interval in accordance with proper procedures. The review will also establish whether or not the equipment, components or systems were found in satisfactory condition.

The periodic re-examination will also include a boarding by Coast Guard marine safety personnel. When the cognizant OCMI's administrative review reveals the vessel to be in substantial compliance with applicable U.S. laws and regulations, and international codes and conventions, the scope of the boarding will be comparable to a Coast Guard Port State Control Program boarding on a similar type of foreign flag vessel. In general this will involve a brief examination of the vessel's certificates, documents and maintenance records, followed by a "walk through" to observe the condition of the vessel's structure, engineering and safety equipment to verify that no unsafe conditions exist. Drills may also be conducted to the extent necessary to verify the crew's competence to effectively respond to likely shipboard emergencies.

- e. Drydock Examinations. The Coast Guard may attend the drydockings, ISEs or underwater surveys conducted by the ABS under the terms and conditions of this program.
- f. Special Purpose Inspections. The Coast Guard will process drydock interval extensions, Permits to proceed, Load Line exemptions, Excursion Permits, Changes of Employment and administer the Critical Area Inspection Plan program in accordance with existing policies and procedures.
- g. Marine Casualties and Damage Surveys. The Coast Guard will investigate reportable marine casualties in accordance with current policies and procedures. The Coast Guard maintains authority to review and approve repair proposals in cases where damage to a vessel involves, or is likely to result in a pollution incident, or poses a hazard to the safety of a U.S. navigable waterway. Generally, the Coast Guard will accept the